

APPLICANTS:
Barry and Diane Zoeller

REQUEST:
**An extension of a non-conforming building
pursuant to Section 267-21 of the Harford County
Code**

HEARING DATE: December 10, 2003

**BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5377**

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Barry and Diane Zoeller

LOCATION: 2107 Pulaski Highway, Edgewood
Tax Map: 65 / Grid: 2F / Parcel: 265
First Election District:

ZONING: B3 / General Business District

REQUEST: An extension of a non-conforming building pursuant to Section 267-21 of the Harford County Code.

TESTIMONY AND EVIDENCE OF RECORD:

At the hearing, the Applicant amended his application to add Diane Zoeller as a Co-Applicant.

Barry Zoeller testified he had purchased 2107 Pulaski Highway in order to house his motorcycle repair business. The Applicant had been forced to vacate his leased business property, which he had used for many years.

Soon after its purchase, the Applicant begun to construct a one-story, 20 foot by 28 foot addition to the rear of the existing one-story block building. The addition, which was begun without a permit, maintained the same setback from the side yard as had the existing building. That setback was 1.5 feet. The setback of the existing building is non-conforming as it was built prior to the existing setback requirements, which would now require a 20 foot setback. The addition, being built with the same 1.5 foot setback, is accordingly in violation. The Applicant now requests an extension of the non-conforming building.

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The Applicant indicated he had contacted all surrounding property owners and none had any objection. In particular, he had contacted the operators of the Taco Bell which is immediately adjoining the Applicant's property, and which is the property most immediately effected by the variance. None of the adjoining lot property owners expressed any objection to the proposed variance.

The Applicant further testified that he understood the proposed addition would have to meet all building regulations and would have to pass all Harford County inspections.

For the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune testified, and the Staff Report reflected, that the requested enlargement or extension of this non-conforming building would meet or exceed all requirements of Section 267-21. Mr. McClune further stated that the lot itself is very unusually shaped in that it is only approximately 34 feet wide at the site of the building. It would be virtually impossible to construct any sort of a useable expansion of the building at that location due to the narrowness of the lot without the granting of this non-conforming use request. Mr. McClune also stated that, even with the expansion, adequate on-site parking would be available.

No witnesses appeared in opposition.

APPLICABLE LAW:

The Applicants are requesting a variance to Sections 267-21 and 267-9I of the Harford County Code.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Section 267-21 of the Harford County Code provides:

“The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- A. The proposed extension or enlargement does not change to a less-restricted and more intensive use.
- B. The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the nonconformity.
- C. The enlargement or extension does not violate the height or coverage regulations for the district.
- D. The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.

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- E. The limitations, guides and standards set forth in Section 267-9I, Limitations, Guides and Standards, are considered by the Board.”

Based on the testimony and evidence of record, the Applicant is fully able to meet each of these requirements, and there is evidence that no adverse impact should be generated.

CONCLUSION:

The Applicant can meet or exceed all requirements of Sections 267-21 and 267-9I of the Harford County Code. The requested extension of the non-conforming building to construct a 20 foot by 28 foot one-story block addition to the existing structure, located approximately 1.5 feet from the lot line, is hereby approved, subject to the following conditions:

1. That the Applicant obtain all necessary permits and inspections for the addition.
2. That the construction be completed, and all final permits be obtained within six (6) months from the date of this decision.

Date: December 31, 2003

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner